

**FENWICK & WEST LLP**

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October 8, 2007

WILLIAM A. FENWICK

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VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

David P. Morales  
The Morales Law Firm  
1414 Soquel Avenue, Suite 212  
Santa Cruz, CA 95062  
moraleslaw@sbcglobal.net

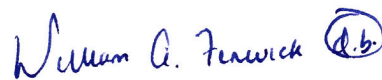
Curtis R. Tingley  
Ropers, Majeski, Kohn & Bentley  
80 North First Street  
San Jose, CA 95113  
ctingley@ropers.com

Re: Churchill v. Bargetto, et al., Case No. D 07-03007 MMC MED

Dear Sirs:

Pursuant to the court's appointment as your mediator, I have sent you two emails regarding the scheduling of the telephone conference preceding the mediation conference. I have received no response from either counsel. If this dispute has been resolved, please notify me immediately. If it has not been resolved, in view of the non-response of counsel to my request that the two of you agree on a date for the phone conference, I have no alternative but to report to Judge Brazil on the status and withdraw as mediator. That is what I will do if counsel does not provide me three alternative dates for the phone conference call by Monday, October 15, 2007.

Respectfully,

A handwritten signature in blue ink that reads "William A. Fenwick" followed by a circled "d.b.".

William A. Fenwick

cc: Alice M. Fiel  
ADR Case Administrator  
Alice\_Fiel@Cand.uscourts.gov

The Morales Law Firm  
Ropers, Majeski, Kohn & Bentley  
October 8, 2007  
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ACKNOWLEDGEMENT OF RECEIPT

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(Recipient)

PARTY REPRESENTING

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DATE: \_\_\_\_\_